

FISCAL NOTE

SB 2475 - HB 2797

February 26, 2002

SUMMARY OF BILL: Eliminates, effective July 1, 2002, the criminal offense of facilitation of a felony. Under current law, two criminal statutes covering the area of the law viewed as accessory before the fact are criminal responsibility for the conduct of another and criminal responsibility for the facilitation of a felony. Criminal responsibility for the conduct of another requires the element of intent to promote or assist in the commission of a crime. The criminal responsibility for facilitation of a felony requires *no intent* to promote or assist in the commission of the crime when the person furnished assistance in the commission of the felony. The punishment for criminal responsibility for the conduct of another is the same as would be for the person who committed the offense. The punishment for criminal responsibility for the facilitation of a felony is one classification lower than the underlying felony (example: aggravated robbery is a Class B felony whereas facilitation of aggravated robbery is a Class C felony).

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$835,800/Incarceration*

Estimate assumes persons convicted at jury trial who were indicted for the more serious underlying felony but were convicted of facilitation of the felony would be convicted of the more serious underlying felony. This estimate is based upon the elevation of sentence in 3 cases of first degree murder, 1 case of second degree murder, 1 case of aggravated robbery, 1 case of theft, 1 case of aggravated child abuse, and 2 cases of Schedule II drugs - cocaine.

Also, the elimination of this offense will have impact upon conviction and sentencing for many cases where facilitation of a felony was the conviction based upon a plea agreement. For information purposes during the year 2000, there were:

- 519 persons were convicted of facilitation of a felony;
- 504 persons were convicted of facilitation of a felony that were the results of plea agreements;
- 12 persons were convicted of facilitation of a felony that were the results of a jury trial;
- 3 persons were convicted of facilitation of a felony that were bench trials or unknown;
- 62 persons were indicted for facilitation of a specified felony and were convicted of facilitation of the felony;

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- 457 persons were indicted for the more serious underlying felony offense but were convicted of the less serious facilitation of the underlying felony offense.

**Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated for operating cost, in current dollars, shall be based upon the highest cost of the next 10 years, beginning with the year the additional sentence to be served impacts the correctional facilities population.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James A. Davenport". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James A. Davenport, Executive Director